



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
David Emme, Administrator

April 12, 2016

Jay A. Steinberg
Nevada Environmental Response Trust
35 East Wacker Drive, Suite 1550
Chicago, IL 60601

Certified Mail
9171 9690 0935 0037 6679 90

Re: **Tronox LLC (TRX) Facility**
Nevada Environmental Response Trust (Trust) Property
Finding and Order Requiring Engineering Evaluation/Cost Analysis (EE/CA), Nevada
Environmental Response Trust (Trust), Henderson, Nevada, NDEP Facility ID #H-
000539

Dear Mr. Steinberg,

Enclosed please find a Finding and Order, and State Environmental Commission Form #3. This Order requires The Nevada Environmental Response Trust ("Trust") to complete an Engineering Evaluation/Cost Analysis (EE/CA) for the known contamination in the shallow groundwater in the area of Pabco Road and the Las Vegas Wash originating at the Trust facility located within the Black Mountain Industrial ("BMI") Complex, 560 W Lake Mead Parkway, Henderson, Nevada. Nevada Division of Environmental Protection (the "Division") facility ID Number H-000539.

Pursuant to NRS 445A.690, this Order is final and not subject to review unless, within thirty (30) days after the date the Order is served, a request by written petition for a hearing is received by the State Environmental Commission, Executive Secretary, via mail to 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, or via facsimile to (775) 687-5856. I have included the appropriate form for an appeal hearing (Form #3) for your convenience. Please provide me with a copy of any correspondence you have with the Commission.

If you have any questions regarding this matter, please call me at (702) 486-2850 Ext 235.

Sincerely,

James (JD) Dotchin
Bureau of Industrial Site Cleanup
NDEP-Las Vegas City Office

JD:jd

Enclosures(3)

IN THE MATTER OF)
Nevada Environmental Response Trust)
April 12, 2016)
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Finding
Order
SEC From #3

EC: w/Enclosures

Dave Emme, NDEP Administrator
Greg Lovato, NDEP Deputy Administrator
Valerie King, Nevada State Environmental Commission, Carson City
Jasmine Mehta, Senior Deputy Attorney General, Attorney General's Office, Carson City
Carlton Parker, NDEP BISC Las Vegas
Weiquan Dong, NDEP BISC Las Vegas
Alison Fong, U.S. Environmental Protection Agency, Region 9
Andrew Steinberg, Nevada Environmental Response Trust
Betty Kuo Brinton, MWDH2O
Brenda Pohlmann, City of Henderson
Carol Nagai, MWDH2O
Charles K. Hauser, Esq., Southern Nevada Water Authority
Chuck Elmendorf, Stauffer Management Company, LLC
Dave Share, Olin
David Johnson, Central Arizona Water Conservation District
Dave Johnson, LVVWD
Ebrahim Juma, Clean Water Team
George Crouse, Syngenta Crop Protection, Inc.
Jay Steinberg, Nevada Environmental Response Trust
Jeff Gibson, Endeavour
Jill Teraoka, MWDH2O
Joe Kelly, Montrose Chemical Corporation of CA
Joe Leedy, Clean Water Team
Katherine Baylor, U.S. Environmental Protection Agency, Region 9
Kevin Fisher, LV Valley Water District
Lee Farris, BRC
Letitia Moore, U.S. Environmental Protection Agency, Region 9
Marcia Scully, Metropolitan Water District of Southern California
Maria Lopez, Water District of Southern California
Mark Paris, Landwell
Mickey Chaudhuri, Metropolitan Water District of Southern California
Peggy Roefer, CRC
Richard Pfarrer, TIMET
Scott Bryan, Central Arizona Project
Steve Armann, U.S. Environmental Protection Agency, Region 9
Steve Clough, Nevada Environmental Response Trust
Tanya O'Neill, Foley & Lardner L
Todd Tietjen, SNWA

FINDINGS

1. Data provided to the NDEP by the Southern Nevada Water Authority (SNWA) during the January 11, 2016 Weir Presentation and data presented in the October 30, 2015 Annual Remedial Performance Report for Chromium and Perchlorate Nevada Environmental Response Trust Site Henderson, Nevada indicates that groundwater in the area of two future SNWA erosion control structures within the Las Vegas Wash contains significant quantities of perchlorate. These structures will be located in an area of the Las Vegas Wash downstream from where the main perchlorate groundwater plume from the Nevada Environmental Response Trust ("NERT") intersects the Las Vegas Wash. This information is available in the site administrative record maintained at the NDEP offices in Las Vegas.
2. Construction of these two erosion control structures is currently scheduled by SNWA to commence in 2016 and be concluded in 2019, and will require Las Vegas Wash stream diversion and construction dewatering. Based on available information, current estimates by the NDEP and SNWA indicate that the groundwater extracted during construction dewatering will contain 3 tons of perchlorate.
3. Direct discharge of this groundwater into the Las Vegas Wash without treatment would substantially contribute to continued exceedance of the current Nevada provisional maximum contaminant level for perchlorate of 18 parts per billion within the Las Vegas Wash.
4. The Las Vegas Wash is tributary to Lake Mead, the primary drinking water source for the Las Vegas Valley, and the Colorado River, which is a significant source of drinking water for populations in Arizona and Southern California. Any increase in perchlorate loading to the Las Vegas Wash would threaten these drinking water sources.

ORDER

This Order is issued under the authority vested in the Director of the Department of Conservation and Natural Resources ("Department") by Nevada Revised Statutes (NRS) 445A.445(1) and 445A.450, delegated to the Division of Environmental Protection ("Division") pursuant to NRS 445A.450(10), and in accordance with NRS 445A.675, and 445A.690. Under this authority, the NDEP has determined that it is necessary and appropriate to require NERT to evaluate options for preventing further exceedances of concentrations of perchlorate that are considered protective of Las Vegas Wash water quality.

IT IS HEREBY ORDERED:

The Nevada Environmental Response Trust (NERT) shall complete the following acts at/or with respect to the NERT Facility located within the Black Mountain Industrial ("BMI") Complex, 560 West Lake Mead Parkway in Henderson, Nevada (hereinafter "the Site") to take action necessary to mitigate and abate substantial hazards to public health pursuant to NAC 445A.22691 and NAC 445A.22695 and consistent with the National Contingency Plan (NCP) by the dates specified:

1. Within ten (10) days of the date of this Order: Submit to the Division a written reply which states NERT's intention to comply with the Order. "Days" as used in this Order shall mean calendar days, excluding state and federal holidays.
2. Within thirty (30) days of the date of this Order: NERT will provide the NDEP and the USEPA with a work plan and a budget (Deliverables) to complete all items within this Order.
3. Within ninety (90) days of the Division's approval of the Deliverables, NERT will provide the Division with an Engineering Evaluation/Cost Analysis (EE/CA) that evaluates the cost, feasibility, schedule and permitting requirements for transferring and treating groundwater extracted during the SNWA Weir construction dewatering. The EE/CA shall include evaluation of the construction of conveyance piping from dewatering locations to the treatment facility, as well as the design, construction, operation, maintenance and reporting associated with the treatment of the groundwater extracted during Weir construction dewatering.
4. NERT should work with NDEP and SNWA staff to obtain the following information and access related to the EE/CA. SNWA's March 15, 2016

letter to the NDEP indicated that SNWA has agreed to work with and to provide the NERT with the necessary information to complete the EE/CA.

- i. Anticipated schedule for bidding and construction of weirs;
 - ii. Access to groundwater monitoring wells along the Las Vegas Wash to characterize groundwater quality at the weir construction area;
 - iii. Access to historical construction records regarding the dewatering methods employed, groundwater extraction rates, and measured perchlorate concentrations in groundwater;
 - iv. Development of a conceptual dewatering plan to identify the approximate dewatering rate during construction and the approximate schedule at both weir locations;
 - v. Development of a conceptual design for conveying water from dewatering operations to the treatment system; and
 - vi. Identifying property ownership along the influent pipeline corridor to the treatment system.
5. Within thirty (30) days of the Division's approval and requested implementation of the EE/CA: NERT must complete a new National Pollutant Discharge Elimination System (NPDES) permit application to facilitate the treatment of the Sunrise Mountain Weir and Historic Lateral Weir groundwater sources.

April 12, 2016
Date



James (JD) Dotchin, Chief
Bureau of Industrial Site Cleanup

FORM 3: FORM FOR REQUESTING AN APPEAL HEARING
(Provide attachments as needed)

1. Name, address, telephone number, and signature of appellant:

Name: _____

Physical Address: _____

E-mail Address: _____

Telephone Number: _____

Signature: _____

Representative capacity (if applicable): _____

2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.

3. Specify grounds of appeal: (check all that apply)

- ☐ Final decision in violation of constitutional or statutory provision;
- ☐ Final decision made upon unlawful procedure;
- ☐ Final decision was affected by other error of law;
- ☐ Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- ☐ Final decision was arbitrary or capricious or characterized by abuse of discretion;

4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or or regulations that give the State Environmental Commission jurisdiction to hear the appeal.

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5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.

Date of Request: _____.

Send Form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701